

**TOWN COUNCIL  
REGULAR MEETING  
MARCH 7, 2001**

**1. PLEDGE OF ALLEGIANCE**

The meeting was called to order at 7:00 p.m. by Mayor Venis and was followed by the Pledge of Allegiance.

**2. ROLL CALL**

Present were Mayor Venis, Vice-Mayor Weiner and Councilmembers Clark, Cox and Paul. Also present were Town Administrator Willi, Town Attorney Kiar, and Town Clerk Muniz recording the meeting.

**3. OPEN PUBLIC MEETING**

Mayor Venis advised the speakers of the Open Public Meeting procedures.

Father Conley spoke in support of Dan Pignato on his candidacy for Council and thanked Councilmember Cox for the work she had done.

Dean Alexander, candidate for Seat 4, vehemently opposed the action voted for by Councilmember Paul on suing neighbors to force a recreational trail through their yards. He reported that the courts had ruled in the residents favor and asked that they be reimbursed court costs that resulted from this suit and any claim of easement belonging to them be vacated. Mr. Alexander advised that Councilmember Paul had voted in favor of settling a lawsuit against the City of Sunrise regarding water rates which he opposed. Mr. Alexander further reported that he helped create the Town's transit system in every phase and objected to Councilmember Paul stating in her campaign literature that she was trying to provide transportation for seniors as well as to the picture of her at the opening ceremonies. He stated that he volunteered his legal services for citrus canker needs, but advised that he would not put that in his campaign literature because Councilmember Paul was the one who led the effort. Mr. Alexander urged all residents to vote on March 13th.

Kitty Presseosi spoke about her husband who was a professor at Nova Southeastern University, stating that they both trained and coached leaders and managers around the country. She indicated that she was in support of Susan Starkey for District 3.

Susan Starkey thanked everyone for a great campaign and indicated that it was difficult to see the Town not being able to resolve overcrowding and water issues. She felt that these were critical to the Town's success and she hoped to see stability at the Council level. Ms. Starkey thanked Councilmember Cox for her dedicated service to the Town and looked forward to working with whoever was elected.

Bob Bullandes felt that Ms. Starkey would be an asset to Davie and its residents.

Richard Meyer, 1700 SW 83 Avenue, commended the Police Department for its recent efforts in his neighborhood to slow traffic and in stepping in to stop a bad situation.

David Kaplan, 87791 NW 33 Street, enumerated a list of concerns. He asked to see the water plant landscaping filled in and two right turn lanes at Davie Road and I-595 which would alleviate the stacking. Mr. Kaplan referred to 7605 NW 32 Place, stating that there was a park gate and a Park Ranger driving over the swale of this resident's property. He asked that a dirt bike trail be policed to stop the motorcycles. Mr. Kaplan spoke about the NW 33 Street Park and suggested that the Town take over the vacated land, stating that maintenance was needed for the grass and the fence. He asked the police to look into graffiti on 78th Avenue. Mr. Kaplan advised that large pines had been partially cut on SW 70 Street which could be dangerous to nearby homes in a strong wind. He asked for a recently paved street to be striped with a double yellow line and for a cracked sidewalk to be repaired.

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Jason Curtis stated that Ms. Starkey was against the supermajority vote for land use and though claiming to want to preserve the environment, she lobbied to allow a developer to build 110 estate homes at environmentally sensitive Pine Island Ridge. He felt that she claimed to want to preserve the rural lifestyle, but did not understand what that was. Mr. Curtis reported that Ms. Starkey had lobbied to increase property taxes to pay for more schools. He criticized Dean Alexander, stating that he was neither for nor against major issues including single member districts, supermajority for land use and was against the agricultural rate for farms. Mr. Curtis spoke about Mr. Pignato, stating that Mr. Pignato was against increases in residential density but spoke in favor of R-1E zoning. Mr. Curtis suggested that Mr. Pignato's big business approach to how the Town needed to be run indicated that he would be better as a Town Administrator, not a candidate for Council.

Tom Truex, 4740 SW 72 Avenue, a candidate for District 2, reminded residents to vote on March 13th. He felt that there were dramatic differences in candidates and that all candidates needed to be commended for a clean campaign. Mr. Truex asked residents to not knock down any candidate's campaign signs and he attempted to clear up some points by saying that he was for parks and libraries. He asked for all supporters of candidates to stick to the facts of the issues and recommended that Council eventually revisit the issue of an ethics code.

Norm Blanco, 2080 SW 72 Avenue, advised that he was in support of Bruce Novak who was a candidate for District 2 and felt that Mr. Novak's goal was to serve the public.

Sandra Switzer, Central Broward Water Control Board, thanked Council for its attention to water issues. She felt that the Town had been an asset in Central Broward's efforts. Ms. Switzer spoke on behalf of Councilmember Paul in her efforts to assist when action was needed in an area that was owned by the Town and not Broward County. She spoke about the Oak Hill drainage project and thanked the Town for moving this along quickly. She thanked Public Works/Capital Projects Manager Bruce Bernard and Mr. Crowley. Ms. Switzer referred to Vice-Mayor Weiner's concern about the \$50,000 study and the fact that this had taken so long, stating that she had learned how and why this was done with such care. She felt that the results would be good.

Bruce Novak, 4262 SW 78 Street, mentioned the campaign and thought it had been good in that issues of concern to all residents came to the forefront including factual stories about candidates, flooding, education issues, water problems and solutions, taxes, and bike and horse trail expansion. He observed that diversity training was needed and advised that residents were unsatisfied because they were not heard and were not attended to. Mr. Novak promised to hear and act on their behalf if he was elected.

Jody Joiner asked Council, to approve the site plan, as changed, at Imagination Farms West. Mayor Venis indicated that this was on tonight's agenda and could not be discussed until then.

Joey DeRosa, 4182 SW 107 Way, asked for Council's attention on the need for a fence in his neighborhood.

Bruce Magee, 1418 SW 15 Court, spoke about an equestrian trail that the previous Council had voted to build on his and his neighbor's property. When this idea was entertained by the Town, he opposed it by compiling and presenting much evidence to show that the Town did not have title to, or easement rights on, this property. Mr. McGee reported that on June 3, 1998, the Town voted to build a trail on this land and the residents had hired an attorney to defend their property. The litigation was long and expensive for all

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those involved and Mr. Magee criticized the Town for continuing this court battle and creating hostility between neighbors over the public use of their private property. He petitioned Council to give relief to the residents who suffered in the defense of their property, to vote not to appeal the court's decision and to reimburse legal expenses in the amount of \$20,574.87, subject to verification of documentation.

Mayor Venis indicated that this would be discussed later in the meeting as item 13.3.

Randy Maizie, 14161 SW 21 Street, stated that he was relieved that the three year conflict was over. He described the court continuances and the difficulties, while pointing out the benefit of this situation in uniting neighbors. Mr. Maizie asked Council to put this issue to rest and urged it to reimburse the legal fees, abide by the court's decision, and in the future, be proactive and meet with neighbors before actions were taken.

Joy Yoder, 12610 SW 13 Manor, pointed out that these residents moved in on an active trail and had not been paying taxes on this property. She felt that Council acted on the advice of the previous Town Attorney and applauded Council for standing up for the residents. Ms. Yoder thanked Councilmember Paul for actively supporting children in the Town through the safety summit, Vice-Mayor Weiner for his recent involvement in the cancer awareness event, as well as all Councilmembers for the job they had been doing.

Mike Bender, 14800 SW 31 Court, was embarrassed by Mr. Alexander's comments and felt that the supermajority issue was vital. He advised that there was a group of realtors, developers and lobbyists who had banded together to defeat the Charter amendment. The group called themselves BADPAC and he pointed out that most of these were not residents here. Mr. Bender asked residents to vote in favor of the supermajority and the rural character preservation issue. He felt that if a candidate was not willing to campaign throughout the whole Town and be ready to serve the whole Town, they were not worthy to run and it was not in the best interest of the Town to be divided into four separate townships. He asked all to vote "no" on districting.

Dan Pignato, a candidate for District 2, supported Mr. Bender's advice and cautioned residents to work together to preserve the best of the western rural lifestyle. He spoke of the achievements of the Town and spoke of his own business skills and how they would be an asset to Davie. Mr. Pignato stated that residents wanted the rural lifestyle preserved and in the Charter review, he had supported the supermajority and rural character designation issues. He indicated that water and drainage issues were important to the Town, as well as resolving the education crisis and improvement of Town services while keeping taxes down. Mr. Pignato advised that he had no hidden agenda and that the residents were his only priority.

George Starkey corrected the record, stating that Ms. Starkey did not vote to increase density, as was previously stated.

Barbara Parashas, 3420 SW 117 Avenue, supported the candidacy of Vice-Mayor Weiner, Councilmember Paul and Mr. Truex. She thanked Vice-Mayor Weiner and Councilmember Paul for voting down R-1E and Mr. Truex for his contribution to this decision.

Raul Bosque, 14801 SW 31 Court, advised that over the last three years, he had seen Davie government transformed into a government that was truly for the people by the election of Vice-Mayor Weiner, Councilmember Paul, Mayor Venis and Councilmember Clark.

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Michael Davenport, 14041 SW 22 Place, discussed the Building Division and his recent need to install a water heater, which resulted in four different trips to learn that he needed plumbing, electrical and building permits for this small project. This process, he advised, took six weeks and he now needed several separate inspections. Mr. Davenport recommended that those running for office seriously look at improving this Division's service to residents. He thanked Councilmember Cox for her years of dedication to the Town and her many accomplishments. He spoke about Vice-Mayor Weiner's double standards in some of his decisions. Mr. Davenport felt that Ms. Starkey had no chance of winning as she was unknown, that Mr. Alexander was running for the fourth time and wished that Councilmember Paul would have been more outspoken on some issues, although he supported her for re-election.

#### **4. PRESENTATIONS**

##### **4.1 Supermajority Vote on Land Use Plan Amendments**

Chuck Bonfiglio felt that this matter was bad legislation and set a bad precedent. He did not agree with the need for any item to require a supermajority vote and advised that the Town had a reputation for being anti-development. Mr. Bonfiglio suggested that a developer would avoid coming to the Town where they would need to get a supermajority vote as two votes could kill a project with this system. A land use impact study was done in 1997 which indicated that there were 650 acres that needed to be changed from residential to commercial in order to keep pace with the tax base, and Mr. Bonfiglio added that there had not been one parcel converted since that time. He agreed with the need for a master plan and since the plan in this area had not been followed, the taxpayers would need to pay. He also indicated that taxes truly had been raised, at least for businesses, as anyone who owned commercial property had been assessed 57.6% for EMS. Mr. Bonfiglio summarized that if businesses were discouraged and land use was not converted from residential to commercial, residents would be paying. He felt that these were genuine concerns, not scare tactics. Mr. Bonfiglio added that he did not live in the Town but understood the rural lifestyle and was in support of it wholeheartedly, while advising that the tax base must be enhanced or residents would need to take up the slack.

Arlene Broleman, Executive Director of the Davie/Cooper City Chamber of Commerce, stated that the Chamber was not a political action committee. She opposed the supermajority ordinance as a Charter amendment.

Cindy Osborne, representing the Davie Merchants and Industrial Association, spoke against the supermajority issue as it would make land use changes nearly impossible and inhibit the sale of small parcels of land. The Association felt it would be a deterrent to new businesses or expansion of established businesses, putting the burden on residents. Ms. Osborne added that the Association believed this issue to be unconstitutional and felt a simple majority was reasonable.

Neil Schiller, representing the Realtor Association of Greater Ft. Lauderdale, pointed out that this issue was already provided for by ordinance and the economic impact for the future was not known. He felt it was important to see what the impact was before passing it as a Charter amendment. Mr. Schiller stated that the Association did not want to see land locked in a Charter amendment and wanted instead to promote property rights, which was why they were against this.

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Raul Bosque, 14801 SW 31 Court, spoke in support of supermajority as a Charter amendment. He advised that this would discourage bad business in Davie, not discourage business in general. Mr. Bosque added that to the residents, economic development meant maintaining their quality of life and improving the present commercial development, not more malls, strip malls and industry. He felt that the supermajority amendment would protect the property rights of the residents and preserve property values. Its intent was to empower residents, not to prevent any and all development.

Dean Alexander, 13820 SW 16 Street, opposed the supermajority issue and voiced this at the Charter Review Board meeting. He felt that a majority vote had served this country well in all aspects of government and added that the ordinance should be tested.

Mayor Venis understood the concerns of the business community, but felt that this amendment would not drive away business. He stated that a comprehensive plan was submitted to the State of Florida for its review every five years which had to be approved by the State. Mayor Venis spoke about the comprehensive study regarding land use and felt that a supermajority for land use was appropriate, making it one vote tougher to change land use. All existing commercial land would not need a vote and rezonings or variances would not be affected. He spoke about the 1997 impact study and pointed out that the results were very inconsistent.

Councilmember Paul observed that the original concept came out of a meeting with a group of residents and was for the purpose of giving the residents as much of a say as possible. She pointed out that residents comprised the Charter Review Board and it appeared now as a voter decision. Councilmember Paul had been in favor of the supermajority as it accomplished what it was supposed to, which was to offer protection for the residents to provide responsible and compatible land use.

Vice-Mayor Weiner had supported this issue for some time as this leveled the playing field and good development would pass, but those who already owned land would be protected. He added that the Town would not be put in the middle on decisions and developers would need to get the votes that were necessary.

Councilmember Cox felt that it was important for residents to know that the business community paid a good deal of the taxes for the Town. She added that although many business owners did not live in the Town, they also did not get to vote. Councilmember Cox pointed out that the Town may disagree with the business community, but this should not be an adversarial situation as the supermajority puts the power into the minority as only two people would control Council's decision. She advised residents that this was an opportunity for residents to voice their opinion and the business community should not be berated for voicing their opinion.

Councilmember Clark felt that this was the only form of democracy and would ultimately be the residents' decision. She added that it was good for responsible people to share their feelings and urged all to vote on these important issues.

Mayor Venis agreed that the Town did not want an adversarial relationship with the business community and that was why they were invited to speak at the meetings. He felt that both sides of the issue had been stated and residents would make the final decision.

Police Chief John George introduced Francisco Palacios as a representative of the Police Athletic League. Chief George advised that Mr. Palacios was the State of Florida

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Golden Gloves Champion, had won the State of Florida PAL championship, finished third nationally in the PAL boxing tournament and was a representative athlete for the US Boxing Association. Chief George explained that Mr. Palacios would be representing the Davie PAL in Colorado Springs for the world championship and congratulated him in these accomplishments and in his representation of Davie.

Mr. Palacios thanked the Town for their assistance and thanked others who had been instrumental in his boxing career.

#### **4.2 Upcoming Special Events - Bonnie Stafiej and Dennis Andresky**

Bonnie Stafiej, Special Projects Director, advised that upcoming events included: 4th Annual Paws for Applause (March 11th), Ft. Lauderdale Dog Show (March 17th - 18th); Concert in the Park (March 18th); Project Stable Horse Show (March 25th); and Waterway Clean-Up (March 24th).

Bob Waitkus, representing Paws for Applause, thanked the Town for supporting this event. He introduced one of the dogs who would become a helper to a disabled person and showed another dog which would be involved in pet therapy. Mr. Waitkus advised that this was a fundraising event for the training center, Canine Companions.

Dennis Andresky, Acting Parks and Recreation Director, announced that upcoming events included: adults and seniors St. Patrick's Day celebration (March 16th); SeaEscape Cruise to Nowhere (April 3rd); spring break programs at Orange Park and Eastside Community Hall (April 9th - 13th); and opening day program for boys and girls baseball and softball (March 10th).

Councilmember Clark asked about the youth sports "no-nonsense" policy for parents. Mr. Andresky advised that there was a code of ethics on the back of the programs and the coaches had been trained to focus on fun and fair play. He added that the parents had been offered clinics on the subject of sportsmanship.

Mayor Venis announced that items 10.3, 10.8, 10.14 and 8.10 had been requested to be tabled until March 21, 2001.

Councilmember Paul made a motion, seconded by Councilmember Clark, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Venis advised that items 10.12 and 10.13 had been requested to be tabled until April 4, 2001.

Vice-Mayor Weiner made a motion, seconded by Councilmember Cox, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Venis announced that item 10.15 had been requested to be tabled until April 18, 2001.

Vice-Mayor Weiner made a motion, seconded by Councilmember Clark, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Venis announced that item 10.5 had been requested to be tabled until March 21, 2001.

Councilmember Paul made a motion, seconded by Councilmember Clark, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

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Mayor Venis asked Mr. Willi to provide a status report on the drainage issue.

Mr. Willi stated that a short list of lobbyists was being formulated. He advised that Steel, Hector, Davis was currently doing work for the Town in Tallahassee and they had been given the go ahead to proceed with the Sunrise water issue. There were a couple of Senate bills that could have a rider attached addressing surcharges for water services.

Mayor Venis spoke about the drainage study and advised that the Town was proactive in identifying problems. He advised that the Central Broward Drainage Control District may install a pumping station as Davie water was being trapped and the cost of this would be more than \$10 million, which would be incurred by Central Broward. Mayor Venis indicated that he planned to go to Tallahassee to lobby on behalf of the Town on several issues and added that this was the time to solicit monies for projects.

Sandra Switzer indicated that the study was on Central Broward Drainage District's agenda for a workshop and asked Mr. Willi to contact Mike Crowley to share what the Town was proposing.

#### **5. MAYOR/COUNCILMEMBER'S COMMENTS**

##### **MAYOR VENIS**

**I-75 SOUND BARRIER WALLS.** Mayor Venis indicated that he had received a number of phone calls and letters regarding D&M Acres. He advised that the Department of Transportation (DOT) was cutting down trees along I-75, which had produced a great deal of noise. Residents were concerned about the plan for future landscaping and DOT had advised that there was no plan.

**DAVIE ELEMENTARY SCHOOL SHELTER.** Mayor Venis stated that the plans for the shelter were getting close to completion. He asked Mr. Willi to call Carol Andrews to prepare a presentation by the second meeting in April.

**ANNEXATION OF PROPERTIES INTO SOUTHWEST RANCHES.** Mayor Venis asked Mr. Willi about the proposed workshop meeting. Mr. Willi indicated he was still waiting for confirmation about a date on this. Mayor Venis wanted to make sure the residents could hear what would happen with this property.

**DYKES ROAD AND SHERIDAN WIDENING.** Mayor Venis had received several memorandums and resolutions from Broward County Commissioner Lori Parrish and felt the County would not be opposed to the project.

**ELECTION ON MARCH 13TH.** Mayor Venis asked about the signs that urged residents to vote. Mr. Willi responded that the signs would be put up on the day of the election.

**SPEED HUMPS 31 COURT.** Mayor Venis asked for an update. Mr. Willi asked if Council would give staff time to come up with a comprehensive plan to address this issue. He requested that sufficient reason be determined before any speed humps were installed in the Town, as they were very expensive, County roadways were involved and there were liability issues. Mr. Willi suggested the use of a traffic counter and a specific plan. No objections were noted.

##### **COUNCILMEMBER CLARK**

**SPEED HUMP REQUESTS.** Councilmember Clark stated that she knew it was not possible to install speed humps on every street although the requests were numerous. She indicated that she had previously asked for staff to determine priorities.

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**TRAFFIC SUPPORT.** Councilmember Clark requested more traffic support in District 1 as there were many cut-through streets. She asked staff to make this a priority and spoke about the needs on 58th Avenue. Councilmember Clark added that residents did not come through with a petition in a timely manner, but this was long overdue and she would bring one to the next meeting.

**SUMMERLAKE APARTMENTS.** Councilmember Clark indicated that the low income apartments were beautiful and advised residents that the application process was long. She added that during the construction, a piece of equipment was parked on a resident's lawn and the grass, which was ruined as a result, needed to be replaced.

**OPENSACEADVISORYCOMMITTEE.** Councilmember Clark asked that this Committee conduct research to add bike and equestrian trails in District 1.

**REDEVELOPMENTOFEXISTINGCOMMERCIALSITES.** Councilmember Clark stated that District 1 had very ugly sites and asked for redevelopment ideas for these areas.

**JOINT ECONOMIC DEVELOPMENT STEERING COMMITTEE.** Councilmember Clark advised that there was a long discussion about the Lefmark site in District 1 and that this was a larger project than first imagined. She felt this area needed development that the community could benefit from.

**COUNCILMEMBER COX**

**58TH AVENUE SPEED HUMPS.** Councilmember Cox advised Councilmember Clark that the residents of this area did complete a petition which she had given to Mr. Willi several weeks ago. Mr. Willi planned to determine criteria for when and where speed humps should be added, but Councilmember Cox felt this was a critical area and should be addressed as the volume of traffic had increased and speeding was blatant.

**COUNTY'S MASTER GREENWAYS PLAN.** Councilmember Cox advised that the County had created a plan for developing bike paths, greenways and trails along the main arterials, which included State Road 84. She stated that she would like to see the Town pursue the trailway along Flamingo Road in a cooperative effort with the County, as money was available for this construction as well as for landscaping.

**RURAL LIFESTYLE.** Councilmember Cox indicated that Davie was recognized by the County as having the premiere system of trails and open space. The retention of the rural lifestyle included all of the elements of rezoning and providing the right facilities.

**VICE-MAYOR WEINER**

**WINN-DIXIE SHOPPING CENTER.** Vice-Mayor Weiner advised that he had been asked by County Commissioner Parrish to attend the County Commission meeting as she was concerned about the Winn-Dixie shopping center at Hiatus and State Road 84. He asked Mr. Willi to call her about these concerns that involved a play area revision and traffic issues.

**METROPOLITAN PLANNING ORGANIZATION.** Vice-Mayor Weiner stated that he would be attending the meeting on March 8th and if the I-75 interchange was discussed, he would report back.

**ORANGE BLOSSOM PARADE.** Vice-Mayor Weiner discussed the parade and the American Cancer Society's fundraiser. He spoke about the upcoming fundraiser being held this weekend at Tree Tops Park.

**ELECTION.** Vice-Mayor Weiner stated that he would like to see residents come out to vote. He spoke about those who were taking down other candidates' signs and stated that he did



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not condone those actions. Vice-Mayor Weiner talked about ethical campaign practices and stated that he did not support negative comments by candidates and urged them not to attack each other.

**COUNCILMEMBER PAUL**

**CONDOLENCES.** Councilmember Paul extended her sympathies to Burt Apolenario on the passing of his father.

**ROY ROGERS.** Councilmember Paul advised that Mr. Rogers had been hospitalized and wished him well.

**STREET REFLECTOR.** Councilmember Paul stated that there was a reflector on the corner of 136th Avenue and 24th Street, which was facing east/west and should be turned to face north/south. She added that the stripping that goes the length of the poles for directional signs was great.

**ORANGE BLOSSOM PARADE.** Councilmember Paul stated that she enjoyed seeing all the animals and the parade.

**WETLANDS MITIGATION BANK.** Councilmember Paul asked staff for a report.

**STUDENT MENTOR PROGRAM.** Councilmember Paul advised that she was a mentor for a Davie Elementary student. The principal hoped that all Councilmembers could mentor a child.

**SPEED CHECK.** Councilmember Paul thanked the Police Department for the speed check on 26th Street.

**ELECTION.** Councilmember Paul urged all residents to exercise their rights by voting on election day.

**6. TOWN ADMINISTRATOR'S COMMENTS**

**LEFMARK LETTER.** Mr. Willi sent a letter to the owner's agent demanding that the property be demolished and the lot cleared until a future development plan was made known. He indicated that there would be some activity forced on that site and would show the owner that unimproved property was cheaper to maintain than a developed site that was not in use.

Councilmember Cox asked if HOPE Outreach was still working out of the center. Mr. Willi indicated that they had moved to another area.

**GL HOMES LONG LAKE ESTATES II.** Mr. Willi advised that he had received a request for an administrative appeal to a legal opinion on the vested rights of GL Homes to develop a portion of Long Lake Estates II according to the E-zoning. He stated that staff and Mr. Kiar would like to amend the Code to handle this type of appeal. Mr. Willi advised that GL Homes could force the Town to defend its position at some legal expense. He felt it would be fair to grant the appeal to develop the 80 acres that was zoned E, based on Council's and staff's approval of other projects after the repeal date of the E District.

Vice-Mayor Weiner asked what portion of the property on Nob Hill this referred to. Mr. Willi replied that it was the 80 acres already zoned E which would be compatible with other E Districts in that area.

**I-75 INTERCHANGE.** Mr. Willi indicated that the resolution would be prepared for the next meeting.

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**CONGRATULATIONS.** Mr. Willi extended congratulations to the Budget and Finance Department which had received accolades from the Chairman of the Government Accounting Standards Board for early implementation of the new standards. He singled out Deputy Budget and Finance Director Carol Menke and Administrative Secretary Cyndi Hoxie and reported that they were specifically recognized.

**DIRECTOR OF INFORMATION SYSTEMS.** Mr. Willi advised that he had promoted Frank Apicella to this position.

**TRANSPORTATION SYSTEM.** Programs Manager Chris Kovanes reported that the beginning of this new system had been successful in that the minimum ridership had been surpassed by 20 - 40 riders. He stated that the signage for the bus stops were on back order, but temporary signs were available and advised that there were liabilities with putting a sign in a right of way. Mr. Kovanes thanked those who had requested modifications to the route and indicated that the director needed to sign off on any changes. He advised that there would be a contest in April for naming this bus system.

**7. TOWN ATTORNEY'S COMMENTS**

Mr. Kiar deferred his comments.

**8. CONSENT AGENDA**

*Minutes*

**8.1 January 17, 2001 - Regular Meeting**

*Occupational Licenses (Home)*

**8.2 Alaska Air Conditioning Service, Inc., 14430 SW 17 Street**

**8.3 All Critters Great and Small, 13951 SW 24 Street**

**8.4 Rolyn Limousines, Inc., 2170 SW 115 Terrace**

**8.5 Sandee's Snacks, 4950 SW 70 Avenue**

**8.6 Schachne Architects & Builders, Inc., 10101 SW 40 Street**

**8.7 Stanley N. Schachne Architect, P.A., 10101 SW 40 Street**

**8.8 Title Examiners, Inc., 6510 SW 57 Street**

**8.9 5 Star Home Inspections, Inc., 13240 SW 32 Court**

*Resolutions*

**8.10 AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR AND TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE, BROWARD COUNTY, AND SOUTH POST INCORPORATED; PROVIDING FOR THE ISSUANCE OF BUILDING PERMITS WHILE PLATTING was IN PROGRESS RELATED TO THE SOUTH POST PLAT; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. (DA 1-1-01, 4200 Shotgun Road) (tabled from February 7, 2001)**

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- 8.11 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2001-58 AUTHORIZING THE TOWN OF DAVIE TO ENTER INTO AN AGREEMENT  
BETWEEN PROJECT STABLE OF BROWARD COUNTY AND THE TOWN OF  
DAVIE
- 8.12 **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING  
R-2001-59 THE BID FOR HORTICULTURAL CHEMICALS. (lowest bidder for each item)
- 8.13 **LIEN** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2001-60 SUBORDINATING THE LIEN OF THE TOWN OF DAVIE ON PROPERTY  
OWNED BY JOLMY ENTERPRISES, Inc. WITH RESPECT TO CERTAIN  
MORTGAGE INDEBTEDNESS AND PROVIDING AN EFFECTIVE DATE.  
(Gerard and Susan Wasselle)
- 8.14 **LIEN** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING  
R-2001-61 A REQUEST FOR MITIGATION OF THE CODE COMPLIANCE LIEN IN CASE  
NO. 98-654 FROM \$10,000 IN AMOUNT TO \$1,159.19; AND PROVIDING AN  
EFFECTIVE DATE.
- 8.15 **BOARD** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2001-62 ESTABLISHING THE DAVIE SCHOOL ADVISORY BOARD; PROVIDING FOR  
MEMBERSHIP OF THE BOARD; PROVIDING FOR TERMS OF OFFICE OF ITS  
MEMBERS; PROVIDING FOR FUNCTIONS AND DUTIES OF THE BOARD;  
AND PROVIDING AN EFFECTIVE DATE.
- 8.16 **CLASS SPECIFICATION** - A RESOLUTION OF THE TOWN OF DAVIE,  
R-2001-63 FLORIDA, CREATING THE CLASS SPECIFICATION FOR THE POSITION OF  
DEPUTY BUILDING OFFICIAL IN THE NON-REPRESENTED PAY AND  
CLASSIFICATION PLAN AND PROVIDING AN EFFECTIVE DATE.
- 8.17 **CLASS SPECIFICATION** - A RESOLUTION OF THE TOWN OF DAVIE,  
R-2001-64 FLORIDA, CREATING THE CLASS SPECIFICATION FOR THE POSITION OF  
ENGINEER II IN THE NON-REPRESENTED PAY AND CLASSIFICATION  
PLAN AND PROVIDING AN EFFECTIVE DATE.
- 8.18 **CLASS SPECIFICATION** - A RESOLUTION OF THE TOWN OF DAVIE,  
R-2001-65 FLORIDA, ADJUSTING THE PAY GRADE OF THE PROJECT MANAGER IN  
THE NON-REPRESENTED PAY AND CLASSIFICATION PLAN.

*Site Plan Modification*

- 8.19 **SP 9-2-00, Griffin Road Professional Center, 5450 Griffin Road (B-2)** *Planning and Zoning Division recommended approval subject to the planning report; Site Plan Committee recommended approval subject to the planning report*

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*Master Site Plan*

**8.20 MSP 11-1-00, Master Site Plan for Library, Business School, and Parking Deck, 3301 College Avenue (CF)** Planning and Zoning Division recommended approval subject to the planning report; Site Plan Committee recommended approval subject to and including staff's recommendations, Engineering comments, and to finalize landscape plans with staff at a later date

Mayor Venis advised that item 8.20 would be heard after item 10.9.

Councilmember Paul made a motion, seconded by Vice-Mayor Weiner, to approve the Consent Agenda without item 8.20. In a voice vote, all voted in favor. (Motion carried 5-0)

**9. PUBLIC COMMENTS**

*Ordinances - First Reading (Public Hearing to be held on March 21, 2001)*

**9.1 REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM M-3, GENERAL INDUSTRIAL DISTRICT (COUNTY), TO M-3, PLANNED INDUSTRIAL PARK, OF THE TOWN OF DAVIE CODE; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 11-1-00, Glenn's Automotive, 2685 Reese Road)**

Town Clerk Muniz read the ordinance by title.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public comments were closed.

Vice-Mayor Weiner made a motion, seconded by Councilmember Clark, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

**9.2 EASEMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING A ROAD AND UTILITY EASEMENT FROM RICHARD W. EPSTEIN AND MARIE G. PETERSON, AND PROVIDING AN EFFECTIVE DATE. (VA 5-2-00, Utset/Epstein and Peterson, 6703 SW 59 Street)**

Town Clerk Muniz read the ordinance by title.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public comments were closed.

Councilmember Cox made a motion, seconded by Vice-Mayor Weiner, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

**10. PUBLIC HEARINGS**

Mayor Venis opened the public hearing portion of the meeting.

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*Ordinances - Second and Final Reading*

10.1 **PENSION - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA,**  
2001-15 **AMENDING THE TOWN OF DAVIE POLICE PENSION PLAN TO PROVIDE FOR A COST OF LIVING ADJUSTMENT; PROVIDING FOR A NORMAL RETIREMENT DATE FOR MEMBERS WHO HAVE COMPLETED FIFTEEN YEARS OF SERVICE ON THE ANNIVERSARY OF THE DATE THE MEMBER WOULD HAVE COMPLETED TWENTY YEARS OF SERVICE; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from February 21, 2001)**

Town Clerk Muniz read the ordinance by title.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public hearing was closed.

Vice-Mayor Weiner asked if there was no net impact from the change. Budget and Finance Director Christopher Wallace responded negatively.

Vice-Mayor Weiner made a motion, seconded by Councilmember Cox, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

*Resolutions*

10.2 **FEE SCHEDULE - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA**  
R-2001-66 **REVISING THE FEE SCHEDULE FOR DAVIE SUMMER RECREATION PROGRAMS FOR FY 2000/2001 AND APPROVING THE FEE INCREASE FROM \$10.00 FOR DAVIE SUMMER DAZE PROGRAM TO \$80.00 FOR RESIDENTS OF DAVIE FOR EIGHT WEEKS; AND FROM \$25.00 PER WEEK FOR TEEN PROGRAM TO \$35 PER WEEK FOR THREE FIELD TRIPS PER WEEK, AND \$25.00 PER WEEK FOR TWO FIELD TRIPS PER WEEK. (tabled from February 21, 2001)**

Town Clerk Muniz read the resolution by title.

Mayor Venis asked if anyone wished to speak for or against the resolution. As no one spoke, the public hearing was closed.

Bette Stark, Recreation Supervisor, explained that summer recreation programs included three basic programs. She indicated that the fee increase for Indian Ridge was to expand the Teen Program by adding two additional staff members which would allow the attendance for the program to be doubled, allow 100 children to participate and add to the number of field trips per week. There was also a proposed increase in the fee for the Summer Daze program and Ms. Stark explained what was offered in this program. She listed the costs of similar programs in other local municipalities and indicated that the parents agreed with this cost increase by means of a survey. Ms. Stark added that the Town would continue to subsidize the program at a rate of 77% and felt that the new Broward County Children's Services and bond issue could provide grant funds, as well.

Councilmember Clark made a motion, seconded by Councilmember Cox, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

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- 10.3 FEE SCHEDULE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, REVISING THE FEE SCHEDULE FOR THE TACKLE FOOTBALL AND TACKLE CHEERLEADING PROGRAM FOR FY 2000/2001 AND APPROVING AN ADDITIONAL \$30.00 FEE WHICH WOULD BE DEPOSITED IN THE PARKS AND RECREATION YOUTH SPORTS OPERATING ACCOUNT 001-0801-572-0513. (tabled from February 21, 2001)

This item was tabled earlier in the meeting.

*Quasi Judicial Items*

- 10.4 REZONING** - ZB 10-1-00, Home Depot USA/Geiserman, Trustee and Farias, west side of University Drive, north of Stirling Road (from A-1 to B-2) (tabled from February 7, 2001) *Planning and Zoning Division recommended approval; Planning and Zoning Board recommended approval*

Mayor Venis swore in the witnesses. Mr. Kiar explained the rules concerning the presentation of evidence. Planning and Zoning Manager Jeff Katims summarized the planning report.

Dennis Mele, representing the petitioner, displayed an aerial photograph explaining the area that was proposed for rezoning. He stated that the parking area would be upgraded to the Town's current standard for landscaping.

Mayor Venis asked if anyone wished to speak for or against the issue.

Tom Truex, 4740 SW 72 Avenue, indicated that he thought the request was a good idea and recommended that it be approved. He advised that one concern was that there was never any access to 82nd Avenue which he thought had been addressed. Mr. Truex hoped that Council would resist the pressure to increase residential density on the west side of 82nd Avenue.

Mayor Venis closed the public hearing.

Councilmember Clark made a motion, seconded by Vice-Mayor Weiner, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Cox - yes; Councilmember Clark - yes; Councilmember Paul - yes. (Motion carried 5-0)

- 10.5 REZONING** - ZB 11-2-00, H.J. Zimmerman & Assoc., Inc./South Post, Inc., 4200 Shotgun Road (from A-1 to E) (tabled from February 21, 2001) *Planning and Zoning Division recommended approval; Planning and Zoning Board recommended denial*

This item was tabled earlier in the meeting.

- 10.6 VARIANCE** - V 5-4-00, Lombardi/Ross-Matz Investments, 8020 SW 30 Street (B-2) (tabled from December 20, 2000) (1 - to reduce the required setback from 20 feet to 5 feet adjacent to the building along the west property line; 2 - to reduce the 10-foot perimeter landscape buffer from 10 feet to 5 feet adjacent to the loading zone along the south property line and tapering to 0 feet at the curve which meets the south property line; and 3 - to reduce the 10-foot perimeter landscape buffer from 10 feet to 5 feet adjacent to the building along the west property line and 2.17 feet adjacent to the T-turnaround) *Planning and Zoning Division recommended approval subject to the planning report; Planning and Zoning Board recommended approval subject to the conditions as outlined in the planning report*

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Mayor Venis swore in the witnesses. Mr. Katims summarized the planning report.

Enrique Pasquale, representing the petitioner, explained the original design and the special circumstances regarding the parking requirements which were based on gross square footage. Since the original application, the parking requirements of the Town had been modified and there was no variance now. Mr. Pasquale added that the design and location of the building was changed to accommodate the wishes of the residents and staff concerns about landscape buffering.

Mayor Venis asked if anyone wished to speak for or against the issue. As no one spoke, the public hearing was closed.

Mayor Venis swore in Fire Chief Don DiPetrillo.

Vice-Mayor Weiner asked about the access road to the west of the building and if Chief DiPetrillo had had a chance to discuss it with Development Services to make sure there was sufficient access. Chief DiPetrillo was aware that the Fire Department had the right to amend if needed, even if Council voted on this tonight. He indicated that he had not had time to look into the access.

Vice-Mayor Weiner made a motion, seconded by Councilmember Clark, to approve subject to Planning and Zoning Board's recommendation. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

- 10.7 **VARIANCE** - V 11-1-00, Home Depot USA/University Creek Associates, LTD., generally on the west side of University Drive, east of SW 82 Avenue and north of Stirling Road (A-1 and B-2) (1 - to allow a 136,467 square foot retail store; 2- to allow a 207,764 square foot shopping center; 3 - to reduce the number of required parking spaces by 83 for a total of 888) *Planning and Zoning Division recommended approval of variance requests 1 and 2 and denial of variance request 3; Planning and Zoning Board recommended conditional approval of petition V 11-1-00. The two conditions are (1) that there be a cross parking agreement between Home Depot and the other shops in the University Creek Plaza and (2) that Home Depot would not use the parking lot for outdoor sales displays*

Mayor Venis swore in the witnesses. Mr. Katims summarized the planning report.

Dennis Mele, representing the petitioner, discussed the parking request, pointing out that the added landscape islands resulted in approximately 100 spaces being lost. He explained that the deficit of spaces was not in the Home Depot area but another area of the site plan and added that the petitioner had complied with the new Code development. Mr. Mele stated that there were over 900 spaces and he did not feel that the loss of 88 was significant.

Mayor Venis asked if anyone wished to speak for or against the issue. As no one spoke, the public hearing was closed.

Councilmember Cox made a motion, seconded by Vice-Mayor Weiner, to approve all variances with the caveat that the petitioner adopt all restrictions placed on him by the Planning and Zoning Board. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

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- 10.8 VARIANCE - V 12-1-00, Bouza/Sundance at Davie, Inc., 7100 Nova Drive, (R-4A, Old Code) (to allow an eight foot wall on the eastern portion of the property) Planning and Zoning Division recommended approval; Planning and Zoning Board recommended approval**

This item was tabled earlier in the meeting.

- 10.9 VARIANCE - V 1-5-01, Nova Southeastern University, 3301 College Avenue (CF) (to allow a 50 foot high parking garage and an 85 foot high business school) Planning and Zoning Division recommended approval subject to the planning report; Planning and Zoning Board recommended conditional approval subject to verification that the Town has the fire equipment to service buildings of this height, that no additional fire equipment would be required for these buildings, that this verification be made available to the Town Council at the time of its review of this item**

Mayor Venis swore in the witnesses. Mr. Kutney summarized the planning report.

John Santulli, representing the petitioner, was present.

Mr. Kiar asked if anyone wished to provide testimony in favor of or opposition to the issue. No one spoke.

Mr. Kiar stated that the hearing was concluded.

Vice-Mayor Weiner made a motion, seconded by Councilmember Clark, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

8.20 Vice-Mayor Weiner made a motion, seconded by Councilmember Clark, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

Chief DiPetrillo had concerns but recommended approval subject to no decrease in the fire service capability of the Town.

- 10.10 SPECIAL PERMIT - SE 1-1-01, Loeser/Milhem and Katz, 2000 Flamingo Road (AG) (construction of an outdoor exercise area for animals) Planning and Zoning Division recommended approval subject to the planning report; Planning and Zoning Board recommended approval subject to conditions as outlined in the meeting**

Mayor Venis swore in the witnesses. Mr. Katims summarized the planning report.

Mr. Connick advised that it appeared that the Town and the applicant were agreeing that the Planning and Zoning Board would be the decision maker. He pointed that the Planning and Zoning Board was advisory in nature and this needed to be clarified.

Councilmember Clark asked if the site was meeting all other Code requirements and if more requirements for buffering could be imposed at a later time. Mr. Katims indicated that the requirements would have to be met and must go through site plan. He advised that all property owners within 500 feet were advised of this matter and to staff's knowledge, there was no objection.



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Dr. Joyce Loeser, the petitioner, clarified that the kennel area would be completely enclosed within the building. The area used for training would be used for agility work and obedience training, and the Code requirements would be met for this area including landscape buffer and containing wall.

Mayor Venis asked if anyone wished to provide testimony in favor of or opposition to the issue. No one spoke.

Mr. Kiar stated that the hearing was concluded.

Vice-Mayor Weiner made a motion, seconded by Councilmember Cox, to approve subject to the Planning and Zoning Board recommendation with the condition that the Board make recommendation to the Town Council for its consideration. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

*Broward County Flex Rule*

10.11 FX 11-1-00, Silva/Thorite of Florida Inc. and Kligman, 2100 Flamingo Road (AG) Planning and Zoning Division recommended approval subject to the planning report; Planning and Zoning Board recommended approval

Bill Laystrom, representing the petitioner, was present.

Mr. Katims explained the application mentioned in the previous report indicating that this was for the residential acreage to be allocated by Council to commercial flexibility. He advised that this was not rezoning, but the County would view it as consistent with its land use plan. Mr. Katims stated that the property would still be zoned agricultural.

Councilmember Cox asked if the kennel went away, could someone come in and build a commercial site. Mr. Katims stated that the property would have to be rezoned and indicated that this flex was just for platting purposes.

Mayor Venis asked if anyone wished to provide testimony in favor of or opposition to the issue. No one spoke.

Councilmember Clark made a motion, seconded by Councilmember Paul, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Weiner - yes; Councilmember Clark - yes; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 5-0)

*Items to be tabled*

10.12 **PLANNING AND ZONING BOARD TABLED TO MARCH 14, 2001;  
COUNCIL CAN TABLE TO APRIL 4, 2001**

REZONING - ZB 1-1-01, Crown Castle/AMF Bowling Centers, Inc., 8200 West State Road 84 (from B-2A, Old Code to B-2)

This item was tabled earlier in the meeting.

10.13 **PLANNING AND ZONING BOARD TABLED TO MARCH 28, 2001;  
COUNCIL CAN TABLE TO APRIL 4, 2001**

REZONING - ZB 1-2-01, Ramos/Parkway Christian Church, 1200 South Flamingo Road (from CF to CF, amending the Declaration of Restrictions)

This item was tabled earlier in the meeting.

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**10.14 PLANNING AND ZONING BOARD TABLED TO MARCH 14, 2001;  
COUNCIL CAN TABLE TO MARCH 21, 2001**

VARIANCE - V 1-2-01, Mellgren/Forman and Forman, Trustees, 6405 Nova Drive (M-4, County) (to allow 21.4 percent open space on the Ruby Tuesdays parcel, 20 percent open space on the Westport Plaza parcel exclusive of the outparcel, and 20 percent open space on the Westport Plaza outparcel)

This item was tabled earlier in the meeting.

**10.15 PLANNING AND ZONING BOARD TABLED TO MARCH 14, 2001;  
COUNCIL CAN TABLE TO APRIL 18, 2001**

SPECIAL PERMIT - SE 1-2-01, Crown Castle/AMF Bowling Centers, Inc., 8200 West State Road 84 (B-2A, Old Code)

This item was tabled earlier in the meeting.

Mayor Venis advised that this closed the public portion of the meeting.

**11. APPOINTMENTS**

11.1 Davie Water and Environmental Advisory Board (one exclusive appointment - Councilmembers Cox and Clark and Vice-Mayor Weiner; terms expire December 2001)

Councilmember Clark appointed Raul Bosque. Vice-Mayor Weiner deferred his appointment. Councilmember Cox appointed Tom Truex.

11.2 Davie Agricultural Advisory Board (one exclusive appointment per Councilmember; terms expires February 2002)

Councilmember Clark appointed Delia Alonso. Councilmember Paul and Vice-Mayor Weiner deferred their appointments. Councilmember Cox appointed Jason Hurley.

11.3 Open Space Advisory Committee (one exclusive appointment - Councilmember Clark; term expires July 2001)

Councilmember Clark appointed Dr. Tina Pelligren.

11.4 Budget Advisory Committee (one exclusive appointment - Councilmember Paul; term expires December 2001)

Councilmember Paul deferred her appointment.

11.5 Planning and Zoning Board/Local Planning Agency (one exclusive appointment - Councilmember Cox; term March 2001 to May 2001)

Councilmember Cox appointed Terry Santini.

Later in the meeting, Mayor Venis advised that a vote was not taken on this appointment which was required. Mr. Kiar read the Code regarding this issue.

Vice-Mayor Weiner made a motion, to approve the nomination.

Mayor Venis felt that since there would be a new Councilmember for this District, he would like to see the new Councilmember make the appointment. Councilmember Cox advised that it was only a two-month appointment and her successor could then appoint someone.

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Councilmember Cox seconded the motion. In a roll call vote, the vote was as follows: Mayor Venis - no; Vice-Mayor Weiner - yes; Councilmember Clark - no; Councilmember Cox - yes; Councilmember Paul - no. (Motion failed 2-3)

Mayor Venis stated this appointment would be added to the next agenda. Councilmember Cox understood the intent of Council and did not want to appoint anyone else.

Mayor Venis made a motion, seconded by Councilmember Clark, to pull the remaining appointments from this agenda. In a voice vote, all voted in favor with Councilmember Cox dissenting. (Motion carried 4-1)

- 11.6 School Advisory Board (two exclusive appointments per Councilmembers; term expires March 2002)

This item was deferred to the March 21, 2001 meeting.

## **12. OLD BUSINESS**

There was no old business to be discussed.

## **13. NEW BUSINESS**

### **13.1 Urban Design Consultants**

Mr. Kutney advised that this item related to Dover Kohl and the Griffin Road Corridor. He explained the plan that was followed and stated that the input of Dover Kohl was important in this process. Mr. Kutney indicated that payment to Dover Kohl for consultation would come from the developer, not the Town. In that situation, Dover Kohl would not be acting as the Town's agent.

Mr. Katims stated that certain developers wanted to comply with the new zoning district and had asked for direction. He advised that Dover Kohl would not be creating plans for developers to submit through the Town, but would offer ideas to developers of what the Town would like to see. In this regard, Dover Kohl would be acting as an agent for the Town. The developer would then need to hire their own designer for their plan.

Vice-Mayor Weiner suggested paying Dover Kohl a flat fee per request and charging the developer a fee for review, instead of having them interact with the developer. Mr. Katims discussed ideas for how this would fee would become part of the fee schedule.

Councilmember Cox agreed that this was not staff's area of expertise and supported this idea. She felt that the Town would be less embroiled in the individual sites and she assumed that how Dover Kohl steered a developer would not mean Council would be locked into the same plan for an area. Mr. Kutney agreed that their ideas were only a starting point and staff may also disagree.

### **13.2 Public Notice Requirements**

Mr. Kutney advised that staff had looked at increasing the notification requirements and had surveyed nine cities. He reported that notices for residents was a courtesy as Florida Statutes required a sign and newspaper ad only. He felt that if the notice area was increased, the burden on staff would be increased as there would be more questions and more cost.

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Vice-Mayor Weiner suggested that if there were just a few property owners within that area, or undeveloped land, the area could be increased to include more property owners.

Mr. Kutney indicated that the applicant could be required to provide the notice, but felt it would be best if the Town retained control of this process.

Councilmember Cox recommended a larger sign as done by other cities and felt that mailing a notice was not as effective.

Mr. Kutney reported that staff would look at the possibility that those living further away may have more say than those residents that were closer.

#### 13.3 Legal Opinion/Trail Issue

Mr. Kiar commended the witnesses who testified on behalf of both parties for their professionalism. He reported that the judge had ruled in favor of the plaintiff, explaining that the judge determined that the Town's inaction had abandoned its rights to the trail, as no construction was initiated either before or after 1990. The court reserved the right to award costs, which Mr. Kiar indicated did not mean attorney's fees. He advised that the Town had the right to appeal this decision.

Mayor Venis addressed the issue of an appeal and referred to a previous decision by Council that this would not be appealed. Councilmember Paul stated that she had previously indicated that she would agree with the judge's ruling and it should stand.

Councilmember Cox agreed with Councilmember Paul and advised that one of the reasons this was pursued was to put the issue to rest. She indicated that the community had approached Council a second time to petition Council to pursue the trail construction. She felt that it was always Council's intent to abide by the judge's decision in order to get the issue resolved.

Mr. Connick indicated that he had filed a motion on behalf of the plaintiff, for summary judgment to determine if a trial was necessary for factual determinations; however, the judge had denied the motion. He stated that the witnesses were residents of the Town and added that every effort was made by the Town Attorney's office to handle this quickly.

Vice-Mayor Weiner stated that he had originally asked for a title opinion. He read from the judge's opinion which stated that Art's Motor City, Inc. did not own any interest in this property. He asked for an explanation from the former attorney stating why Council could not have been told this, so the situation would not have needed to continue. Mr. Connick explained his opinion that even without the quit claim deed, there was still a question of the validity of the declaration of restriction.

Mayor Venis confirmed with Council that it was in agreement not to appeal this issue and asked for discussion about the residents' legal bills.

Vice-Mayor Weiner asked if Mr. Kuegler's attorney would be filing to regain costs and asked how much would be involved. Mr. Kiar indicated that there was provision for what costs were recoverable, so this cost would be limited and minimal. He reiterated that these were not attorney's fees.

Mayor Venis advised that the Town had initiated the action to go forward with the 142nd Avenue trail and the residents had to defend themselves in court. He would like to see residents reimbursed for their costs, subject to Mr. Kiar's review of the invoices. Mr.

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Connick felt that the Town had made a policy decision and felt that the plaintiff could have stipulated from the beginning to reciprocate and reimburse the Town, should the decision have gone the other way.

Councilmember Clark stated that if the Town had entered into this agreement, it would have risked losing their case and then reimbursing for fees. She added that the reason this was delayed was that the Town was trying to tie in many other homeowners. and felt that residents should be reimbursed.

Councilmember Paul stated that she had asked up front if Council would be paying for fees and was advised of this possibility. She felt that reimbursement would work toward the healing process, but she did not want to set a precedent. Mr. Kiar advised that each case stood on its own merit and reiterated that Council was not obligated to reimburse the residents.

Councilmember Cox recalled that Council was responding to requests from others in the community and advised that the trail was not initiated by Council. She added that this was a test case and Council had agreed to take Ms. Kuegler so not everyone would have to get involved. She felt that residents on the corridor should be given some peace of mind and she would like to look at the fees, after bills were submitted, before a decision was made.

Vice-Mayor Weiner made a motion, seconded by Councilmember Cox, to have Ms. Kuegler and the residents submit their legal bills, including attorney fees, related to this trail and the subsequent litigation, to the Town Attorney for his review, so he could bring it back to Council for consideration for reimbursement at the next meeting.

Mr. Magee indicated that he was the one who found counsel for Ms. Kuegler as she was of modest means, to defray some of the cost. He advised that he and other residents were already in the midst of pursuing legal assistance and advised that he had submitted a list of expenses. Councilmember Clark confirmed that the list of costs submitted excluded those of Ms. Kuegler as her insurance policy covered these.

Vice-Mayor Weiner restated his motion, seconded by Councilmember Cox, to have Mr. Kiar review the legal bills and bring it back to Council for consideration and approval at the next meeting.

Mayor Venis suggested that the legal fees be approved subject to verification. Councilmember Cox reiterated that she wanted to look at the costs and could not agree to that, as she would like to see what was paid and for what purpose before approval.

Vice-Mayor Weiner stated that the invoice was not specific for what the fees were attributable to. Mr. Kiar stated that he would need an itemized statement for services rendered.

In a roll call vote on Vice-Mayor Weiner's motion, the vote was as follows: Mayor Venis - no; Vice-Mayor Weiner - yes; Councilmember Clark - no; Councilmember Cox - yes; Councilmember Paul - yes. (Motion carried 3-2)

**14. ADJOURNMENT**

There being no objections or further business, the meeting was adjourned at 12:15 p.m.

APPROVED \_\_\_\_\_

\_\_\_\_\_  
Mayor/Councilmember

\_\_\_\_\_  
Town Clerk